IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 345 OF 1988.

The Commissioner of Income-tax. ... Applicant.

V/s.

M/s.Cynamid India Ltd. ... Respondent.

Ashok Kotangale for the applicant.

Balakrishnan S. i/b. Cr.Baley & Co.
for the respondent.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 30th June 2005.

P.C. :

. By this reference under section 256(1) of the Income-tax Act, 1961, the Income Tax Appellate Tribunal, at the instance of the revenue, has referred the following questions of law for the opinion of this Court:

1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that in computing the disallowance in respect of remuneration and perquisites paid to an employee-director, the provisions of sec.40(c) and not the provisions of section 40A(5) of the Income-tax Act are applicable?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that husk is an agricultural product and consequently the assessee is entitled to the deduction of Rs.3,10,918/- u/s. 35C of the I.T.Act, 1961?

. Learned counsel for the parties agreed that in view of the decision of this Court in the case of **C.I.T. v. HICO Products Pvt.Ltd. (No.1)**, (1993) 201 ITR 567, question No.1 has to be answered in the affirmative i.e. in favour of the assessee and against the revenue.

. They further agreed that in view of decision of the Apex Court in the case of **C.I.T. v. Cynamid India Ltd.**, (1999) 237 ITR 585, question No.2 has to answered in the affirmative i.e. in favour of the assessee and against the revenue.

. We answer both the questions accordingly. Reference stands disposed of with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**